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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,526	09/14/2001	Aviel D. Rubin	2000-0415	3764

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EXAMINER

SHERKAT, AREZOO

ART UNIT	PAPER NUMBER
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2131

DATE MAILED: 08/02/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/682,526

Applicant(s)

RUBIN, AVIEL D.

Examiner

Arezoo Sherkat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 5 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claims 1-16 are presented for examination.

Claim Objections

Claims 5 and 13 are objected to because of the following informalities:

Incorrect Punctuation at the last paragraph. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 9, and 13 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention Bailey, III, (U.S. Patent No. 5,659,614 and Bailey hereinafter).

Regarding claims 1 and 9, Bailey discloses a method of backing up one or more files on a local device onto remote servers over a network comprising:

deriving a first cryptographic key and a second cryptographic key from a user-provided passphrase, and generating an authentication code for the bundle using the first cryptographic key and adding the authentication code to the bundle (Col. 17-18, lines 1-67 and Col. 19, lines 1-5).

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compressing one or more files and adding each of the files to a bundle, and encrypting the bundle using the second cryptographic key prior to sending the bundle to the remote server (Col. 17, lines 50-67 and Col. 18, lines 1-53).

Regarding claims 5 and 13, Bailey discloses a method of restoring one or more files on remote servers to a local device over a network comprising:

deriving a first cryptographic key and a second cryptographic key from a user-provided passphrase, decrypting a bundle received from the remote server using the second cryptographic key, checking an authentication code in the bundle using the first cryptographic key (Col. 17-18, lines 1-67 and Col. 19, lines 1-5); and

decompressing one or more files from the bundle (Col. 5, lines 7-33).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 6-8, 10-12, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey, III, (U.S. Patent No. 5,659,614 and Bailey hereinafter), in view of Walmsley, (U.S. Publication No. 2004/0049468 and Walmsley hereinafter).

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Regarding claims 2, 6, 10, and 14, Bailey does not expressly disclose wherein the bundle is encrypted using a strong block cipher.

However, Walmsley discloses wherein the bundle is encrypted using a strong block cipher (Page 3-4, Par. 0069-0088).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Bailey with the teachings of Walmsley because it would allow to include wherein the bundle is encrypted using a strong block cipher with the motivation to provide more security than single key DES (Walmsley, Page 3, Par. 0081).

Regarding claims 3, 7, 11, and 15, Bailey does not expressly disclose wherein the authentication code is an HMAC.

However, Walmsley discloses wherein the authentication code is an HMAC (Pages 7-8, Par. 0157-0176).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Bailey with the teachings of Walmsley because it would allow to include wherein the authentication code is an HMAC with the motivation to provide for a solution for Internet message authentication security protocols (Walmsley, Page 7, Par. 0158).

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Regarding claims 4, 8, 12, and 16, Bailey does not expressly disclose wherein the cryptographic keys contain at least 128 bits.

However, Walmsley discloses wherein the cryptographic keys contain at least 128 bits (Pages 7-8, Par. 0157-0176).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify the teachings of Bailey with the teachings of Walmsley because it would allow to include wherein the cryptographic keys contain at least 128 bits with the motivation to ensure better security.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Growrock et al. (U.S. Patent No. 6,408,389),

Montville et al. (U.S. Patent No. 6,356,937),

Whiting et al. (U.S. Patent No. 5,788,395),

Thomlinson et al. (U.S. Patent No. 6,044,155), and Request For
Comments: 2104.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arezoo Sherkat whose telephone number is (703) 305-8749. The examiner can normally be reached on 8:00-4:30 Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (703) 305-9648. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arezoo Sherkat
Patent Examiner
Group 2131
July 20, 2004



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